Manitoba

Annual Report 1985-86 *

The Criminal Injuries Compensation Board

*For the period ending March 31, 1986

Published by Authority of the Legislative Assembly
Winnipeg, Manitoba.

Manitoba

Criminal Injuries Compensation Board

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June 4, 1986

Honourable Roland Penner, Q.C.,
Attorney-General,
104 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Sir:

On behalf of The Criminal Injuries Compensation Board, we are pleased to present our annual report in accordance with Section 27.1 of The Criminal Injuries Compensation Act.

This annual report covers the 12-month fiscal period from April 1, 1985 to March 31, 1986.

Respectfully submitted,

Asuncion Arrojado
Chairperson

T. Donald Bulloch
Commissioner

Allan A. Fleury
Commissioner

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Introduction

The Criminal Injuries Compensation Act was passed on July 16, 1970 and provides that injured victims of crime, or their dependents, be eligible for benefits in an amount similar to compensation paid to workers under The Workers Compensation Act. The intent of the Act was to ensure that any innocent victim of crime or any person injured as a result of assisting a Peace Officer should not be placed in a position of undue financial hardship.

At that time, the administrative system already in place for workers compensation appeared to be the most appropriate system for addressing the needs of processing criminal injuries compensation claims. Therefore, in 1971 the Workers Compensation Board was designated to administer The Criminal Injuries Compensation Act as the Criminal Injuries Compensation Board.

Funding for criminal injuries compensation comes from the Consolidated Fund of the Province of Manitoba through the offices of the Attorney-General, and the Workers Compensation Board is reimbursed an administrative fee to provide services.

This annual report reviews general information about criminal injuries compensation. As well, departmental information, relevant statistical tables and graphs, and a statement of claims costs is provided.

In Review

- Financial information related to benefit costs other than salaries or rehabilitation was established in a format to provide a more complete breakdown. This information is reflected in Table IV of the statistical section.
- External communications were expanded with a wider distribution of informational pamphlets and an increase in speaking engagements.
- Medical Progress Report Forms were developed to assist in obtaining additional information from physicians for claims adjudication. This has resulted in a more expeditious claims process.
- Pension amendments legislated under The Workers Compensation Act in July 1985 to reflect an increase of cost of living were also applied to criminal injuries pension payments.
- Rehabilitation services previously provided by the Workers Compensation Board are now provided by Criminal Injuries Compensation Board staff. However, the Workers Compensation Board Vocational Rehabilitation Services Department is consulted and special services are utilized when appropriate.
- The Criminal Injuries Compensation Board was profiled on **The Fifth Estate** as part of a nation-wide study on criminal injury programs.

Looking Ahead

- Development of a procedure manual will take place during 1986-1987.
- The statistical record system will be expanded to accommodate information required by the Department of Justice relative to types and causes of criminal injury claims.
- It is anticipated that Schedule I of The Criminal Injuries Compensation Act will be amended to reflect changes in the description of offence as outlined in the Criminal Code of Canada.
- Increased efforts will be made to promote public awareness regarding criminal injuries compensation.

General Information

Claims for assistance are made directly to The Criminal Injuries Compensation Board. Any person who is an innocent victim of crime and sustains an injury, or anyone who is injured or killed while attempting to arrest any person, preserve the peace or assist a Peace Officer, may file a claim. This is also applicable to any person who is the surviving spouse, parent, child or dependent of such a victim. The crime must be of the type listed in Schedule I attached to the Act. A copy of Schedule I is provided on Page 23.

Under The Criminal Injuries Compensation Act, a report must be made by the injured victim to the police as soon as possible and the victim must co-operate with the police in apprehension of the offender. A person responsible for the crime or an accomplice to the crime is not eligible to receive an award.

The Act requires that the claim be filed within two years of the injury or death. It is only in very exceptional circumstances, as determined by the Board, that the time limit may be extended.

Two of the pre-requisites in making a claim are that a crime within the schedule of crimes listed in the Act was committed (or peace preserving assistance took place), and that such event directly resulted in injury or death of the victim.

Benefits available to injured victims of crime, or their dependents in case of fatality, include 75% of wages up to the legislated maximum under The Workers Compensation Act.

Monies are also available to cover expenses related to clothing, prescription drugs, broken eyeglasses, artificial limbs and dental expenses provided a minimum loss of $150.00 is incurred. Assistance toward funeral expenses is also available.

Loss of money on the victim's person or kept by the victim in any place at the time of the crime, or loss/damage to personal property other than clothing, eyeglasses, or dentures is not covered. Under the Act in Manitoba, payment is not made for pain and suffering.

All monies received by the victim or dependent in respect of the injury/death (including private insurance, restitution, etc.), or any monies through provincial/municipal social assistance are deductible from criminal injuries benefits.

Rehabilitation services including counselling and referral to appropriate agencies is available to assist victims of crime when it is identified that such assistance would be of benefit.

There is no cost to a victim in the filing and processing of claims. Once the claim has been filed, the Criminal Injuries Compensation Board gathers all necessary documentation to process the claim, and the decision is forwarded directly to the claimant. An appeal process is available if the claimant is not satisfied with the Board's decision, and the information regarding this is provided to the claimant when they are notified of the Board's decision.

In Manitoba there are no residence exclusions in claiming for Criminal Injuries Compensation. The crime must have occurred within the boundaries of the Province of Manitoba, but the victim does not have to be a Manitoba resident.

Departmental Information

The Criminal Injuries Compensation Board staff consists of a Registrar, an Assistant to the Registrar, and a secretary for clerical and typing services.

The Workers Compensation Board of Commissioners establishes policies and criteria for the operations of the Criminal Injuries Compensation Board, and support services are provided by the Finance/Accounting, Medical Services and Vocational Rehabilitation Services Departments of the Workers Compensation Board.

Processing of criminal injury claims takes place in consultation with various departments of the Workers Compensation Board.

Adjudication and Appeals

There are three levels of appeal available within the Criminal Injuries Compensation Board. The first is Initial Adjudication (where the decision originated); the second level is Criminal Injuries Claims Committee; the Final level is with the Board of Commissioners.

Claims, medical aid and/or rehabilitation decisions may be appealed as follows:

1st Level — Initial Adjudication

(a) *Claims Decisions* — The Registrar or Assistant to the Registrar evaluates a claim, decides if it qualifies, and either approves the claim or refers it to the Criminal Injuries Claims Committee (2nd level of appeal). This includes initial claims or claims for recurrence of signs and symptoms of a previous compensable injury.

(b) *Medical Aid Decisions* — The Registrar or Assistant to the Registrar, evaluates requests for any necessary treatment, prescribed drugs, artificial limbs, eyeglasses, transportation expenses, etc., that are related to the claim for compensation.

Process of Appeal:

— IF additional information is submitted which might affect the decision in any of the above instances, or if an issue is being raised that was not considered in the original decision, the matter is reconsidered by the person who made the original decision.

— IF the submission does not contain additional information or does not raise a new issue or a change cannot be made in the initial decision, the claim file is referred directly to the Criminal Injuries Claims Committee.

(c) *Rehabilitation Decisions* — The Registrar evaluates the type of services available to the injured victim, the amount of assistance available, and the duration of such assistance.

Process of Appeal:

— IF additional information is submitted which might affect the decision or if an issue is being raised that was not considered in the original decision, the matter is to be reconsidered by the person who made the original decision.

— IF the submission does not contain additional information or does not raise a new issue or a change cannot be made in the initial decision, the claim file is referred directly to the Criminal Injuries Claims Committee.

2nd Level — Committee

(a) *Claims Decisions* (including Medical Aid) — The Criminal Injuries Claims Committee considers all claims decision appeals where the initial decision cannot be changed or amended to the satisfaction of the appellant by the previous level. This Committee may conduct further investigations into the claim and has the authority to approve or deny compensation. This Committee may also reconsider any of its previous decisions *but only* if the appellant:

(a) Raises an issue previously not addressed.
(b) Submits evidence or information not previously available.

The Criminal Injuries Claims Committee may refer a claim file to a Medical Review Panel.

Criminal Injuries Compensation Act, Section 27(2) (Reference by board in its discretion.):

> "Where in any application under this Act a medical matter arises in which the board desires a further opinion, the board may refer the matter to a panel for its opinion in respect of the matter".

A difference of medical opinion is not a requirement in Section 27(2) as it is in Section 27(3) of The Criminal Injuries Act and 54.1(4) of The Workers Compensation Act.

(b) *Rehabilitation Decisions* — The Criminal Injuries Claims Committee considers all appeals where the issue is in the provision of rehabilitation services and benefits.

Process of Appeal:

— IF additional information is submitted which might affect the adjudication decision, or if an issue is being raised that was not considered in the original decision, this will be considered by the Criminal Injuries Claims Committee.

— IF a written appeal to a Criminal Injuries Claims Committee decision is received, the matter is referred to a Review Officer who may make arrangements for a Board Hearing.

Final Level — Board of Commissioners

The party appealing previous decisions may request either a Board Review or a Board Hearing. The Board of Commissioners may request additional field investigations, conduct its own investigation, or may refer the matter to an appropriate independent medical specialist or panel of specialists for medical input

before reaching a conclusion.

(a) *Board Review* — This review deals simply with the information that is already on the file, as well as any new written submissions.

(b) *Board Hearing* — The appellant/counsel may verbally present their case to the Board of Commissioners. Additional information or a new issue will be considered.

It is recommended that all additional information and/or issue(s) be presented at the Board Review or Board Hearing, as this is the final level of appeal.

Appeal Statistics:

These statistics cover the period April 1, 1985 to March 31, 1986.

Breakdown:

Board of Commissioners:		
Previous Decision Rescinded	1	
Previous Decision Amended	0	
Previous Decision Confirmed	1	
	2	2
Referred to Medical Review Panel		0
TOTAL		2

Manitoba

Office of the Provincial Auditor
Report

The Criminal Injuries Compensation Board

We have examined the financial statement, being the Statement of Receipts and Disbursements, of The Criminal Injuries Compensation Board for the fiscal year ended March 31, 1986. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

In our opinion, this financial statement presents fairly the receipts and disbursements of the Board for the year then ended in accordance with the accounting policies stated in note 1 to the financial statement applied on a basis consistent with that of the preceding year.

Fred H. Jackson

May 2, 1986,
Winnipeg, Manitoba.

F. H. Jackson, C.A.,
Provincial Auditor.

The Criminal Injuries Compensation Board — Manitoba

Statement of Receipts and Disbursements

for the year ended March 31, 1986
(with 1985 figures for comparison)

	1986	1985
Receipts:		
Department of the Attorney-General appropriation	$ 1,043,778	$ 1,151,179
Recoveries — restitutions, insurance	882	500
Bank interest, net of charges	4,726	1,598
Total receipts	1,049,386	1,153,277
Disbursements:		
Benefits paid:		
Temporary disability	247,522	298,797
Pensions (Note 2)	613,997	641,589
Medical, dental, prosthetics, etc.	84,444	99,237
Rehabilitation	70,085	84,231
	1,016,048	1,123,854
Remittance of recoveries to Department of the Attorney-General	882	500
Total disbursements	1,016,930	1,124,354
Excess of receipts over disbursements	32,456	28,923
Bank overdraft, beginning of year	(10,219)	(39,142)
Bank balance (overdraft), end of year	22,237	(10,219)
Reimbursement (refund), in transit, from (to) the appropriation for the fiscal year	(22,237)	10,219
	$ —	$ —

Notes to Financial Statement

for the year ended March 31, 1986

1. Under an Order of the Lieutenant-Governor-in-Council The \ orkers Compensation Board of Manitoba was designated to administer The Criminal Injuries Compensation Act. All charges for the administration of the Act are paid from the Consolidated Fund of the Government of the Province of Manitoba through an appropriation of the Department of the Attorney-General. Under this arrangement, the financial transactions of the Board are processed by the Workers Compensation Board and such transactions are presented in the accompanying financial statement on a cash basis. Administration expenses such as Workers Compensation Board staff salaries and other operating expenses, in respect to this arrangement, are billed to and paid from the appropriation of the Department of the Attorney-General and are reflected in the accounts of the Workers Compensation Board. For the year ended March 31, 1986, $139,895 (March 31, 1985 - $161,102) was incurred by the Workers Compensation Board for administering the Act and reimbursed by the Government of the Province of Manitoba.
2. In accordance with The Criminal Injuries Compensation Act, the Criminal Injuries Compensation Board awards pensions to victims of criminal acts. The pensions are paid from funds provided by the Government of the Province of Manitoba from the Consolidated Fund. The unfunded present value of the pensions awarded as at March 31, 1986 was determined by the Board to amount to $7,279,147 (1985 - $5,702,103).

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Figure IV Claims Filed During the Period April 1, 1985 to March 31, 1986 — Crime Occurrence Area of Province 21

Introduction to the Statistical Section

Table I documents the disposition of claims for the period April 1, 1985 to March 31, 1986 with comparative statistics for the previous period. Four of the claims approved were for fatalities. There were 43 claims held over from the previous year pending further medical documentation.

Table II records the type of claims approved. Schedule I of The Criminal Injuries Compensation Board Act outlines the type of crimes for which criminal injuries compensation can be made. This Schedule is illustrated on page 23. A claim may also be made for injury or death resulting from an attempt to arrest any person, preserve the peace, or assist a Peace Officer.

Table III is an analysis of claims benefits paid for the ten-year period from 1986. This documents temporary and permanent disability payments, rehabilitation cash benefits, and other benefit costs.

Table IV provides new statistical information which outlines a complete breakdown of "other benefit costs" under criminal injury compensation for the period April 1, 1985 to March 31, 1986.

Table V presents information regarding the number of claims processed over a ten-year period. The reasons for non-acceptance of claims are explained in "Most Frequent Reasons for Non-Acceptance of Claims" on page 22.

Figure I illustrates the ages of victims for which claims were filed. A large increase was realized in claims for the 21-25 year age group. This group has been identified previously as the greatest number of victims, however, there was a fifty-five percent increase in claims over the same period last year.

Figure II compares the employment status of the victims. The employed/unemployed statistics have reversed positions during this fiscal period over the previous period.

Figure III provides a comparison of the sex of the victims for which criminal injuries claims were filed. The percentage of male victims remains significantly higher than females.

Figure IV illustrates the crime occurrence area of the province. Winnipeg has the highest number of applicants. This could be due, however, to the fact that over one-half of the population of Manitoba resides in Winnipeg. The percentage breakdown of claims remains the same as for the last fiscal period.

Table I
The Criminal Injuries Compensation Board — Manitoba

Disposition of Claims

for the period April 1, 1985 to March 31, 1986
(with comparative statistics for the previous period)

	1986	1985
Applications Carried Over From Previous Year	43	56
Applications Received	262	236
	305	292
Applications Carried Over to Next Year	74	43
TOTAL APPLICATIONS PROCESSED	231	249
Breakdown of Applications Processed —		
Approved	198	197
Refused	23	29
Not Pursued by Applicant	10	20
Withdrawn	—	3
Referred to the Workers Compensation Board	—	—
	231	249

Table II
The Criminal Injuries Compensation Board — Manitoba

Approved Claims

for the period April 1, 1985 to March 31, 1986
(with comparative statistics for the previous period)

	1986	1985
Under Schedule I:		
Dangerous use of firearm	4	—
Rape	1	3
Attempted rape	—	—
Murder	4	13
Manslaughter	—	1
Attempted murder	23	23
Causing bodily harm with intent	3	—
Common assault; causing bodily harm	134	125
Robbery	17	26
Mischief causing actual danger to life	3	1
Arson	—	—
Indecent assault on a female	5	3
Criminal negligence causing death	1	1
Kidnapping	—	1
False Fire Alarm	1	—
	196	197
Assisting a Peace Officer/Good Samaritan Attempt	2	—
TOTAL	198	197

Table III
The Criminal Injuries Compensation Board — Manitoba

Claims Benefits Paid by Year

Year Ended March 31	Temporary Disability	Permanent Disability	Other Benefit Costs*	Rehabilitation Cash Benefits	Total
1986	$247,522	$613,997	$ 84,444	$ 70,085	$1,016,048
1985	$298,797	$641,589	$ 99,237	$ 84,231	$1,123,854
1984	$392,365	$442,048	$100,159	$ 50,799	$ 985,371
1983	$343,931	$371,579	$ 70,656	$ 14,401	$ 800,567
1982	$248,716	$299,486	$ 52,513	$ 5,285	$ 606,000
1981	$140,754	$259,038	$ 47,604	$ 1,113	$ 448,509
1980	$148,267	$243,275	$ 29,644	$ 200	$ 421,386
1979	$177,140	$175,676	$ 27,199	$ 2,280	$ 382,295
1978	$180,264	$156,615	$ 26,931	$ 5,415	$ 369,225
1977	$185,263	$104,654	$ 22,031	$ 1,194	$ 313,142

See Table IV for details.

Table IV
The Criminal Injuries Compensation Board — Manitoba

Other Benefits Paid

for the period April 1, 1985 to March 31, 1986

Attendants Allowance	$ 16,880
Medical Reports	14,789
Dental Treatment	13,059
Travelling Expenses	9,489
Clothing	9,182
Eyeglasses	5,021
Funeral Expenses	3,532
Prescription Drugs	3,059
Ambulance	3,003
Appliances	2,115
Sundry Expenses	1,968
Chiropractic Treatment	1,457
X-Rays	551
Outpatient Accounts	334
TOTAL	**$ 84,444**

Table V
The Criminal Injuries Compensation Board — Manitoba

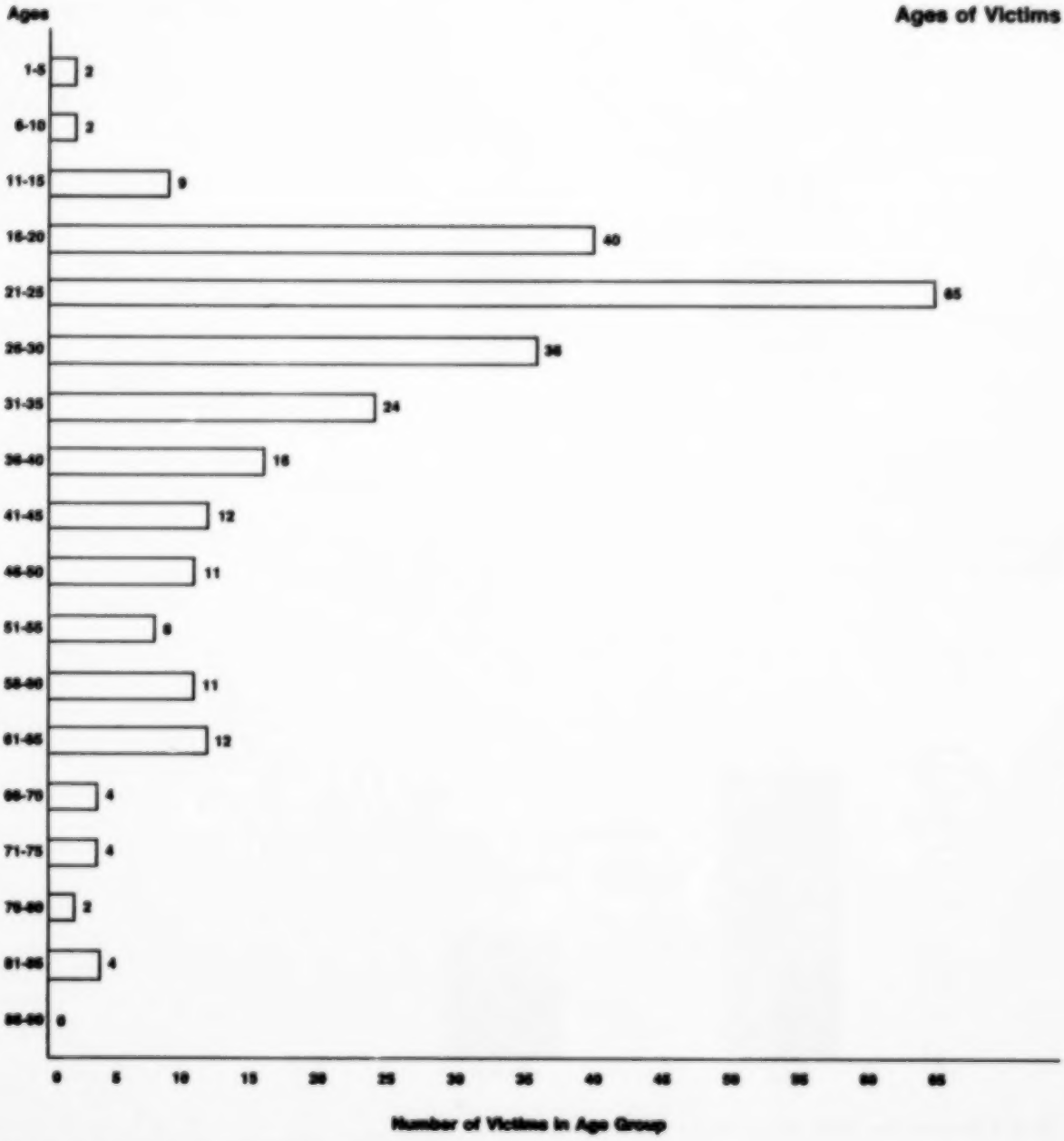
Number of Claims Processed by Year

Year Ended March 31	Approved	Refused	Referred to Workers Compensation Board
1986	198	23	0
1985	197	29	0
1984	257	36	2
1983	166	64	2
1982	125	50	1
1981	119	50	6
1980	79	37	1
1979	89	36	0
1978	90	56	6
1977	81	46	3

Figure I
The Criminal Injuries Compensation Board — Manitoba

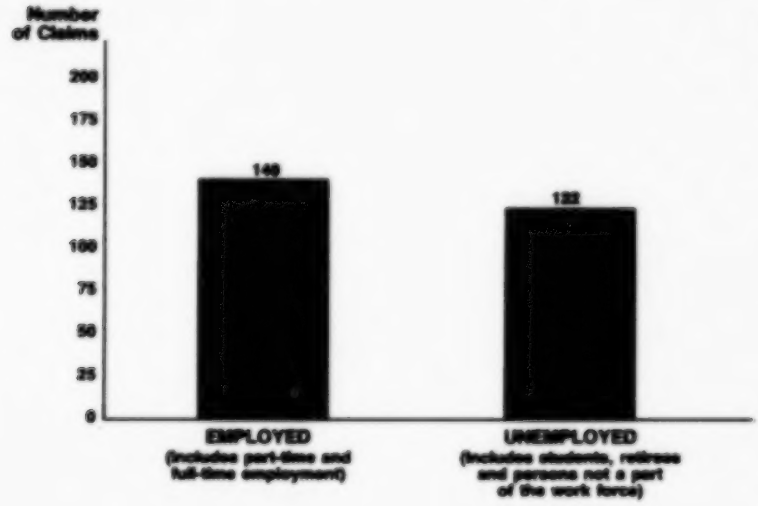
Claims Filed*

during the period April 1, 1985 to March 31, 1986
(based on information filed initially)



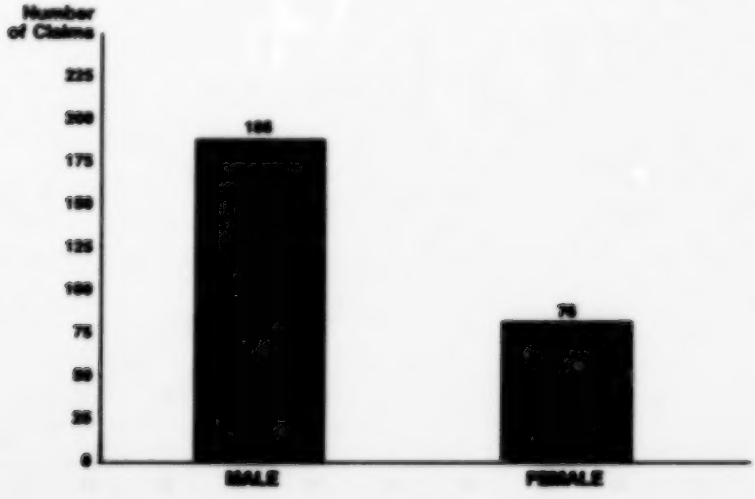
*Some of the claims filed initially were withdrawn by claimants.

Figure II
The Criminal Injuries Compensation Board — Manitoba
Claims Filed*
during the period April 1, 1985 to March 31, 1986
(based on information filed initially)



Employment Status of Victims

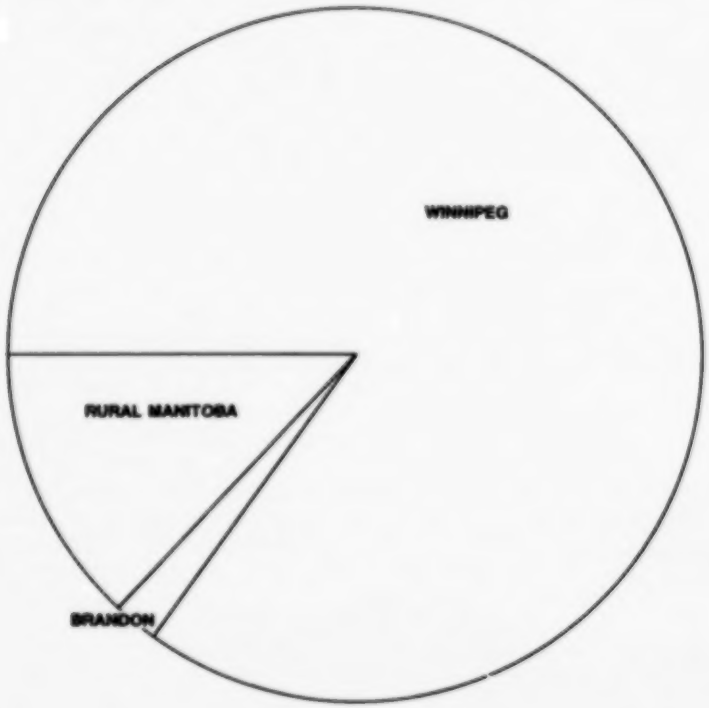
Figure III
Sex of Victims



*Some of the claims filed initially were withdrawn by claimants.

Figure IV
The Criminal Injuries Compensation Board — Manitoba
Claims Filed*
during the period April 1, 1985 to March 31, 1986
(based on information filed initially)

Crime Occurrence Area of Province



Winnipeg = 85% (222 claims)
Brandon = 2% (6 claims)
Other Areas of Manitoba = 13% (34 claims)

*Some of the claims filed initially were withdrawn by claimants.

Most Frequent Reasons for Non-Acceptance of Claims

	1986	1985
SECTION 1(1) (c)		
"(c) "dependant" means a spouse, child or other relative of a deceased victim who was, in whole or in part, dependent upon the income of the victim at the time of his death and includes a child of the victim born after his death;"	0	2
SECTION 6(2) (a)		
"Except as may be otherwise permitted by this Act, the board shall not make an order for compensation where the application for compensation is made after the expiration of 2 years from the date of the injury or death, as the case may be."	0	1
SECTION 6(2) (b)		
"Except as may be otherwise permitted by this Act, the board shall not make an order for compensation where the crime of violence giving rise to the claim was not reported within a reasonable time after the happening thereof to the proper law enforcement officers, or if reported, the claimant did not render the assistance in the apprehension of the offender as he might reasonably be expected; or"	7	10
SECTION 11(1)		
"The board, in making or in declining to make an order for the payment of compensation, shall consider and take into account all such circumstances as it considers relevant to the making of the order and, without limiting the generality of the foregoing, the board shall consider and take into account the character of the applicant and any behaviour that directly or indirectly contributed to the injury or death of the victim."	10	7
SECTION 12(3) (b)		
"The board shall not make an order for the payment of compensation . . . where in respect of offences arising out of the operation of a motor vehicle, except as provided in subsection (4) . . ."	0	1
SCHEDULE 1		
No evidence of a crime under the Schedule of Crimes under The Act.	6	8
	23	29

Schedule 1

Section of Criminal Code	Description of Offence
66	taking part in a riot
76.1	hijacking of aircraft
76.2	endangering safety of aircraft in flight
76.3	taking on board a civilian aircraft offensive weapons and explosive substances
78	failure to take reasonable care in relation to explosives where death or bodily harm results
79	causing explosion with intent to do bodily harm or endanger life
86	dangerous use of firearm
144	rape
145	attempted rape
146	sexual intercourse with female under fourteen
149	indecent assault on female
156	indecent assault on male
176	common nuisance causing harm
197	failure to provide necessaries
200	abandoning child and endangering its life
201	causing bodily harm to servant [para. (a)]
203	causing death by criminal negligence
204	causing bodily harm by criminal negligence
218	murder
219	manslaughter
222	attempted murder
228	causing bodily harm with intent
229	administering poison
230	overcoming resistance to commission of offence
231	setting traps with intent to cause death or bodily harm
232	interfering with transportation facilities with intent to endanger safety to any person
240	dangerous operation of vessel [ss (1) and (4)]
241	impeding attempt to save life
245	common assault: causing bodily harm
246	assault with intent to commit indictable offence: assault on persons enforcing
247	kidnapping: illegal confinement
251(1)	procuring miscarriage
303	robbery
381	intimidation by violence [ss (1) para. (a)]
387(2)	mischief causing actual danger to life
389	arson
392	causing fire resulting in loss of life
393	false fire alarm

Note: Recommendations have been made to revise Schedule 1 in line with changes to the Criminal Code of Canada.

Victim/Witness Services

Victim/Witness Assistance Program

The Victim/Witness Assistance Program is not a part of the Criminal Injuries Compensation Board, however, this is a support program and public awareness of this service is important. It is for this reason that information has been included in the Criminal Injuries Compensation Board Annual Report.

The purpose of the Victim/Witness Assistance Program is to provide a support service to people who have become the victim of a crime or those who are innocently involved in the criminal justice system.

Victim/Witness Assistance is provided through a reception centre located on the third floor of the Provincial Judges Court at 373 Broadway Avenue. The reception centre is staffed by one employee and a number of volunteers who have been familiarized with the criminal justice system.

It is the responsibility of staff to promptly notify witnesses of cancellations. Witnesses attending at the reception centre will be advised who the crown attorney is and will receive answers to any questions they may have.

Crown witnesses also wait in the reception center before being called which means they no longer have to sit in the same room with the accused or defence lawyer. After giving evidence, they may remain, if they wish, with other spectators in the court room.

Interpretation services are provided when needed and referrals are made to the Criminal Injuries Compensation Board when appropriate.

A Victim/Witness Assistance program staffed by volunteers, has been established in Brandon in cooperation with the Brandon City Police Department. Services to the rest of Manitoba are facilitated through a toll-free telephone line.

Informational brochures are distributed with all court subpoenas and throughout the province in cooperation with the Royal Canadian Mounted Police.

The Victim/Witness Assistance Program is funded through the Attorney-General of Manitoba.

Victim Services

Services for this program are provided by the Winnipeg Police Department, and the type of assistance provided includes:

1. Information regarding the progress of the case investigation and the recovery and return of any stolen property.
2. Assistance in understanding the procedures and practices of the Criminal Justice System.
3. Referral to the appropriate community agency for counselling services, legal advice, health care, etc., as required.
4. Referral to the Criminal Injuries Compensation Board for victims injured as the result of a crime.
5. Emotional and moral support will be provided throughout the case. This is especially important to victims of violent crimes.

Older Victim Services

There are services available to retired persons or those over the age of 60 through the Age and Opportunity Centre, Inc. Services are essentially the same as outlined under Victim Services.

Victim Impact Statement Project

A pilot project has been designed to document the medical, financial and emotional impact of crime on victims so that this information may be considered by the court at the time of sentencing.

Presently the preparation of Victim Impact Statements is limited to crimes occurring in Winnipeg Police Districts #1, #3, and #6, and only in cases where the offender has been charged with sexual assault, aggravated assault, assault with a weapon or cause bodily harm, or non-commercial robbery.

This project, which is funded through the Department of Justice and the Department of the Attorney-General of Manitoba, will be evaluated after approximately seventeen months to determine its effectiveness.

Further information is available from the Victim Impact Worker, 5th Floor, Woodsworth Building, 405 Broadway Avenue, Winnipeg.